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FILED & ENTERED

AUG 02 2017

CLERK U.S. BANKRUPTCY COURT
Central District of California
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CHANGES MADE BY COURT
UNITED STATES BANKRUPTCY COURT

CENTRAL DISTRICT OF CALIFORNIA

LOS ANGELES DIVISION

12 In re:) Case No. 2:16-bk-15322-RK
13)
14 **CURTIS C. MAGLEBY,**) Chapter 11
15)
16 Debtor.) **ORDER DENYING MOTION OF CREDITOR**
17) **CINDY S. MAGLEBY MANDATING AND**
18) **DIRECTING PAYMENT OF ADMINISTRATIVE**
19) **SUPPORT CLAIMS PURSUANT TO 11 U.S.C. §**
20) **105(a), 11 U.S.C. § 1129, and 11 U.S.C. § 362 [Dkt.**
21) **247]**
22)
23) Date: July 26, 2017
24) Time: 1:30 p.m.
25) Ctrm: 1675, 16th Floor
26) 255 E. Temple Street
27) Los Angeles, CA 90012
28)

22 This matter came before the Court at the above-stated date and time for the continued hearing
23 on the Motion (the "Motion") of Creditor Cindy S. Magleby for Order Mandating and Directing
24 Payment of Administrative Support Claims pursuant to 11 U.S.C. § 105(a), 11 U.S.C. § 1129, and 11
25 U.S.C. § 362. [Dkt. 247] Appearances at the hearing were as noted on the record.

26 The Court, having read and considered the Motion and all documents filed in support of the
27 Motion and having read and considered all documents filed in opposition to the Motion, having heard
28 and considered the arguments of counsel at the various hearings held on the Motion, having stated its

1 reasons for a ruling on the Motion in the Court's tentative ruling issued initially on May 1, 2017 (a
2 copy of the tentative ruling is attached hereto), for the hearing on the Motion held on May 2, 2017, and
3 which tentative ruling was not revised or modified thereafter and was adopted as the Court's reasons
4 for its ruling on the motion, and good cause appearing therefore,

5 **HEREBY ORDERS** that the Motion is denied.

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Date: August 2, 2017



Robert Kwan
United States Bankruptcy Judge

ATTACHMENT – TENTATIVE RULING ON MOTION

The court is inclined to deny the motion because movant seeks payment of her prepetition claim, though may be entitled to priority (for purposes of this motion, the court assumes that the claim has priority status absent an objection to the claim, Fed. R. Bankr. P. 3001(f)), outside a plan in this Chapter 11 bankruptcy case. (The court disagrees with movant that her claim is postpetition in that she obtained an order postpetition from the family law court that she has a right to payment from an asset, the bonus earned for debtor's postseparation, prepetition services in 2015, making it a prepetition asset, in which she apparently has a prepetition claim awarded by the family law court, though it appears that it is in the nature of support since it is intended to pay for attorneys' fees incurred to obtain support, but the court need not determine the specific character of the claim, except as to its prepetition status. The claim would not be a postpetition administrative expense claim under 11 U.S.C. 503(b) since there is no showing that such claim is for postpetition expenses actually and necessarily benefitting the estate.) As to movant's argument that the court has authority to make distributions in a Chapter 11 case outside a plan pursuant to 11 U.S.C. 105(a), "[t]he general rule is that distribution on pre-petition debt should not take place except pursuant to a confirmed plan of reorganization, absent extraordinary circumstances." *In re Air Beds, Inc.*, 92 B.R. 419, 422 (9th Cir. BAP 1988); see also, *Czyzewski v. Jevic Holding Corp.* 580 U.S. ___, ___, 137 S.Ct. 973, 985-986 (2017)(dicta observing that the bankruptcy court may not approve interim distributions in violation of priority absent significant Bankruptcy Code-related objectives) . The motion does not sufficiently present extraordinary circumstances here. Moreover, the court lacks general authority to deviate from the express procedural safeguards of the Bankruptcy Code under 11 U.S.C. § 105(a). *Law v. Siegel*, 571 U.S. ___, ___, 134 S.Ct. 1188, 1194-1198 (2014)(exemptions under 11 U.S.C. § 522); *Czyzewski v. Jevic Holding Corp.* , 137 S.Ct. at 983-988 (structural dismissals under 11 U.S.C. §§1112 and 349. Appearances are required on 5/2/17, but counsel may appear by telephone.